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Security Council Committee established pursuant to resolution 1718 (2006)

Note verbale dated 7 April 2017 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

The Permanent Mission of Belgium to the United Nations presents its compliments to the Security Council Committee established pursuant to resolution 1718 (2006) and has the honour to transmit herewith the report of Belgium on its implementation of resolution 2321 (2016), in accordance with paragraph 36 of that resolution (see annex).

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Annex to the note verbale dated 7 April 2017 from the Permanent Mission of Belgium to the United Nations addressed to the Chair of the Committee

Report of Belgium on implementation of resolution 2321 (2016)

I. Measures adopted by the European Union

Belgium and the other States members of the European Union are jointly implementing the restrictive measures against the Democratic People's Republic of Korea set forth in Security Council resolution 2321 (2016) by adopting the following measures:

(a) Council Decision (CFSP) 2016/2217 of 8 December 2016 implementing the decision of the Security Council to add the names of 11 persons and 10 entities to the list of persons and entities subject to restrictive measures;

(b) Commission Implementing Regulation (EU) 2016/2215 of 8 December 2016 amending Council Regulation (EC) No. 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea, which implements the above-mentioned decision;

(c) Council Decision (CFSP) 2017/345 of 27 February 2017 implementing all of the measures taken by the Security Council through resolution 2321 (2016), which sets out the commitment of the European Union to implement all measures contained in resolution 2321 (2016) and provides the basis for the specific measures taken by the Union in relation to that resolution, including:

- A trade embargo on nuclear- and/or missile-usable items listed in annex III to resolution 2321 (2016).
- A trade embargo on goods on the new conventional arms dual-use list adopted by the Sanctions Committee pursuant to paragraph 7 of resolution 2321 (2016).
- A prohibition on all leasing or chartering of vessels or aircraft from the Democratic People's Republic of Korea, on the provision of vessel or aircraft crew services to the Democratic People's Republic of Korea and on the procurement of vessel or aircraft crew services from the Democratic People's Republic of Korea.
- A prohibition on registering vessels in the Democratic People's Republic of Korea, obtaining authorization for a vessel to use the flag of the Democratic People's Republic of Korea or owning, leasing, operating, insuring or providing any vessel classification, certification or associated services to any vessel flagged by the Democratic People's Republic of Korea.
- Clarification that specialized teaching and training which could contribute to the nuclear proliferation activities of the Democratic People's Republic of Korea includes, but is not limited to, teaching and training in advanced materials science, advanced chemical engineering, advanced mechanical engineering, advanced electrical engineering and advanced industrial engineering.
- The suspension of scientific and technical cooperation involving persons or groups officially sponsored by or representing the Democratic People's Republic of Korea, with the exception of medical exchanges. The Sanctions Committee may grant exemptions for cooperation in the fields of nuclear science and technology and aeronautical technology if it determines, on a

case-by-case basis, that a particular activity will not contribute to illegal activities. In the case of all other scientific or technical cooperation, the member State concerned shall determine that the particular activity will not contribute to illegal activities and so notify the Committee in advance.

- The granting of power to the Sanctions Committee to identify vessels if it has information providing reasonable grounds to believe that the vessels are involved in illegal activities. This also applies with respect to any additional measures that may be imposed by the Sanctions Committee in this regard.

- Restrictions on entry to the European Union for any members of the Government of the Democratic People's Republic of Korea, officials of that Government and members of that country's armed forces who are associated with illicit activities.

- The restriction of bank accounts held at banks in the European Union to one for each diplomatic mission or consular post of the Democratic People's Republic of Korea and one for each accredited diplomat or consular officer of the Democratic People's Republic of Korea.

- A prohibition on the use by the Democratic People's Republic of Korea of real property that it owns or leases for any purpose other than diplomatic or consular activities, and the prohibition on leasing from the Democratic People's Republic of Korea any property situated outside the territory of that country.

- A prohibition on providing insurance or reinsurance services to vessels owned, controlled or operated, including through illicit means, by the Democratic People's Republic of Korea.

- A prohibition on procuring vessel or aircraft crewing services from the Democratic People's Republic of Korea.

- The obligation to deregister any vessel that is owned, controlled or operated by the Democratic People's Republic of Korea and a prohibition on registering any such vessel previously deregistered by another member State.

- An extension of export prohibitions through the establishment of a new regime for the export ban on coal, which includes a cap on total exports to all United Nations Member States. The implementation of the cap is the responsibility of the Sanctions Committee. The export ban is extended to include new items: statues, new helicopters and vessels, copper, nickel, silver and zinc.

- In the financial sector, a requirement to close existing representative offices, subsidiaries or bank accounts in the Democratic People's Republic of Korea within 90 days, unless the Committee determines, on a case-by-case basis, that such offices, subsidiaries or accounts are required for the delivery of humanitarian assistance or the activities of diplomatic missions.

- A prohibition on the provision of public and private financial support (including the granting of export credits, guarantees or insurance to their nationals involved in such trade).

- The obligation to expel individuals who are working on behalf of or at the direction of a bank or financial institution of the Democratic People's Republic of Korea, unless the presence of the individual is required for the fulfilment of a judicial process or exclusively for medical, safety or other humanitarian purposes.

- The obligation to seize and dispose of (through destruction, rendering inoperable or unusable, storage, or transfer to a State other than the originating

or destination States for disposal) items the supply, sale, transfer or export of which is prohibited by resolutions 1718 (2006), 1874 (2009), 2087 (2013), 2094 (2013), 2270 (2016) or 2321 (2016) that are identified in inspections, in a manner that is not inconsistent with the obligations of States under applicable Security Council resolutions, including resolution 1540 (2004).

- The Sanctions Committee may grant exemptions to the aforementioned prohibitions on a case-by-case basis, including when it has determined that an exemption may facilitate the work of international and non-governmental organizations.

(d) Council Regulation (EU) No. 2017/330 of 27 February 2017 amending Regulation (EC) No 329/2007 concerning restrictive measures against the Democratic People's Republic of Korea, which gives effect to the measures provided for in Council Decision (CFSP) 2017/345.

Decisions of the Council of the European Union enter into force on the day of their publication in the Official Journal of the European Union.

Regulations of the Council of the European Union and European Commission implementing regulations are binding in their entirety and are directly applicable in the legal systems of all States members of the European Union upon publication in the Official Journal of the European Union.

II. National implementation measures

At the national level, the following texts provide the legal basis for the implementation of these sanctions in Belgium:

- The decree-law of 6 October 1944 regulating all transfers of goods and assets between Belgium and foreign countries (amended by the law of 28 February 2002);
- The law of 11 May 1995 on the implementation of United Nations Security Council decisions;
- The law of 13 May 2003 on the implementation of restrictive measures adopted by the Council of the European Union against States and certain individuals and entities.

Moreover, Belgium has legislation, at both the federal level and the level of the competent regional authorities, requiring that an export licence be obtained for any sale, supply, transfer or export of arms or materiel to third countries. This legislation provides the basis for the implementation of the arms embargo against the Democratic People's Republic of Korea and of the prohibition on the provision of related services.

The law of 5 August 1991 on the import, export and transit of, and combating the traffic in, arms, munitions and equipment specifically intended for military use or for maintaining order, as well as related technology, as amended by the law of 26 March 2003, forbids any person residing in Belgium to undertake any arms transaction without a licence issued for that purpose by the Minister of Justice. This law also provides that holders of such licences may not undertake any transaction that would violate an embargo decreed by an international organization of which Belgium is a member (articles 10 and 11).

The same law provides that any request for an export or transit licence must be denied if it is incompatible with the international obligations of Belgium and the commitments it has undertaken to implement the arms embargoes decreed by the

United Nations, the Organization for Security and Cooperation in Europe and the European Union (article 4, paragraphs 1 and 2).

The regional authorities also have their own strict legal framework in this regard.

On the basis of Security Council resolution 1718 (2006) and subsequent relevant resolutions, and amended Common Position 2006/795/CFSP and amended Regulation (EC) No. 329/2007 of the Council of the European Union, any request for a licence to export arms to the Democratic People's Republic of Korea would be denied.

With regard to the embargo on items, materials, equipment, goods and technology which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea, Belgium adheres to the requirements of amended Regulation (EC) No. 329/2007 of the Council of the European Union, which forbids:

- The sale, supply, transfer or export of goods, materials, equipment or technologies which could contribute to the nuclear-related, ballistic missile-related or other weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;
- The purchase, import or transport of such items from the Democratic People's Republic of Korea;
- The provision of technical assistance, financing and financial assistance related to arms and to goods which could contribute to weapons of mass destruction-related programmes of the Democratic People's Republic of Korea;
- The procurement of such services from the Democratic People's Republic of Korea. These prohibitions apply directly to all activities carried out in the European Union and to the nationals of member States anywhere in the world.

The intangible transfer of technology poses a particular challenge in efforts to combat the proliferation of weapons of mass destruction. To reduce the risk of academic work, specialized training or scientific cooperation being used for proliferation purposes, the Belgian authorities have carried out awareness-raising activities at universities and scientific institutes. These activities provide an opportunity to familiarize stakeholders with the various risks of proliferation and to explain export control procedures, particularly those applicable to dual-use products or technology. The Federal Public Service for Justice has also produced a pamphlet on the risks associated with the intangible transfer of technology. In addition, the competent services screen visa applications for connections to specialized teaching or training.

The freeze on financial assets and economic resources and the prohibition on making funds available is implemented by article 6 of Regulation (EC) No. 329/2007 of the Council of the European Union, which sets forth the freeze and the prohibition on providing economic resources to listed individuals and entities as provided for under paragraph 3 of Security Council resolution 2321 (2016). In addition to the freeze instituted under Regulation (EC) No. 329/2007 of the Council of the European Union, article 1/1 of the law of 11 May 1995 on the implementation of United Nations Security Council decisions, which was added on 8 January 2016, allows the Minister of Finance to take interim freeze measures through a ministerial order in the case of additions to the lists of individuals and entities targeted by the United Nations that have not yet been covered under European regulations, in order to prevent any delay in the implementation of such

measures. This is the background to the ministerial order of 5 December 2016 on freezing the assets and other financial means specified under article 1/1 of the law of 11 May 1995 on the implementation of United Nations Security Council decisions in the execution of the resolutions on restrictive measures against the Democratic People's Republic of Korea for freezing the assets and other financial means of persons, entities or groups that have been added to the lists of persons, entities or groups subject to the restrictive measures against the Democratic People's Republic of Korea under resolution 2321 (2016). To date, it has not been necessary to implement any asset freezes in Belgium. In addition, the Belgian authorities have provided notification of a decision to suspend authorization for payments to be received from three entities on the sanctions list of the Committee established pursuant to resolution 1718 (2016) in exchange for financial messaging services and ancillary products and services.

With regard to goods traffic, the Customs and Excise Administration has established the necessary procedures for proper implementation of the current provisions of the sanctions regime applicable to the Democratic People's Republic of Korea. The import, export and transit of goods and related technology are regulated by the law of 11 September 1962, as amended, which provides for prior authorization in the form of a licensing regime. Violations and attempted violations of this law are penalized in accordance with the general law on customs and excise of 18 July 1977. Mechanisms have been established to identify vessels with links to the Democratic People's Republic of Korea so that they may be inspected. Compliance with measures prohibiting or restricting imports and exports is also monitored through the Integrated Tariff of the European Union. This is a common system for coding and classifying goods, which details the steps to be taken by parties importing goods to or exporting them from the European Union.

With regard to financial support for trade, the Belgian public export credit insurance agency does not cover the Democratic People's Republic of Korea. The country is classified as category 7, "off cover". No credit insurance, guarantee or other coverage is therefore provided for projects in that country. Furthermore, Belgium does not grant concessional financing to the Democratic People's Republic of Korea.

With regard to the restrictions on entry to Belgian territory and on visa issuance, Decision (CFSP) 2016/2217 of the Council of the European Union updated the list of individuals (in respect of whom the States members of the European Union must take the necessary steps to prevent entry to or transit through their territory) found in annex I of Decision (CFSP) 2016/849 to include the names of the individuals listed in annex I of Security Council resolution 2321 (2016). Individuals subject to the travel ban, whether applied at the level of the United Nations or that of the European Union, are immediately added to the database of the Belgian computer programme used for processing visa applications. If an applicant matches an individual or an alias in the database, the application in question is automatically forwarded to the competent national authority for denial.